

SENATE JOURNAL

Forty-fourth Legislature—Second Called Session.

FIRST DAY.

Senate Chamber,
Austin, Texas,
October 16, 1934.

The Senate met at 12:00 o'clock noon, pursuant to the call of the Governor and was called to order by President Pro Tempore Ad Interim Jim Neal.

Temporary Officers Announced.

The Chair announced the appointment of the following temporary officers:

Secretary, Bob Barker.
Journal Clerk, Mary Greer Rugeley.
Calendar Clerk, Martha Eads Turner.
Sergeant-at-Arms, A. W. Holt.
Doorkeeper, W. J. J. Terrell.

Roll Call.

The roll call disclosed a quorum, the following Senators being present:

Beck.	Oneal.
Burns.	Pace.
Collie.	Poage.
Cotten.	Rawlings.
Davis.	Redditt.
DeBerry.	Regan.
Hill.	Sanderford.
Holbrook.	Shivers.
Hopkins.	Small.
Hornsby.	Stone.
Isbell.	Sulak.
Martin.	Van Zandt.
Moore.	Westerfeld.
Neal.	Woodruff.
Nelson.	

Absent—Excused.

Blackert. Fellbaum.

Prayer by the Chaplain.

Proclamation.

Proclamation by the Governor of the State of Texas.

To All to Whom These Presents Shall Come:

On August 24, 1935, the people of Texas voted to change the Constitu-

tion of Texas by adopting a new Section to be known as Section 51-B, authorizing the Legislature, under certain limitations, to provide for old age assistance, not to exceed \$15.00 per month each, to bona fide citizens of Texas over the age of 65 years.

On September 16, 1935, the Legislature of Texas was called in special session for the purpose, among other things of carrying out the will of the people by providing a system of old age pensions and revenues to support same. Other important matters voted by the people were also incorporated in the call, however, and several days ago it became apparent that the Legislature would not be able at the First Called Session to enact an old age pension statute and provide revenues for same.

The First Called Session of the Forty-fourth Legislature automatically expires today, and I consider it my duty in justice to the people and members of the Legislature, to call another special session to carry out the expressed mandate of the people in regard to old age pensions.

Now, Therefore, I, James V. Allred, Governor of the State of Texas, by virtue of the authority vested in me by the Constitution and laws of this State, hereby call the

Second Special Session

of the Forty-fourth Legislature, to be convened in the City of Austin, commencing at 12 o'clock noon on Wednesday, the 16th day of October, A. D. 1935, for the following purposes:

1. To provide, under such limitations and restrictions and regulations as may be deemed by the Legislature expedient, for old age assistance and for the payment of same not to exceed \$15.00 per month each to actual bona fide citizens of Texas who are over the age of 65 years, and in all things to carry out the will of the people as expressed by the adoption of House Joint Resolution 19, which provided for an amendment to Arti-

cle 3 of the Constitution of Texas to be known as Section 51-B.

2. To provide necessary revenue for such old age assistance.

3. To consider and act on such other subjects of public importance as the Governor may, from time to time during the session, submit by message.

In testimony whereof, I hereinto sign my name and cause to be impressed hereon the Seal of the State of Texas at Austin, this the 15th day of October, A. D. 1935.

JAMES V. ALLRED,
Governor of Texas.

Read.

Caucus Report.

The Chair recognized Senator Redditt, who sent up the following report of the Senate caucus to elect officers and employees for the Second Called Session of the Forty-fourth Legislature, which was read and adopted:

Senate Resolution No. 1.

Senate Chamber,

Austin, Texas, Oct. 16, 1935.

Hon. Jim Neal, President Pro Tem. of the Senate.

Sir: At a caucus held in the office of the Senate, attended by 25 members of the Senate, the following recommendations were made, to-wit:

The following officers were elected to serve for the ensuing Second Called Session of the Forty-fourth Legislature and at salaries set opposite their names:

Secretary of the Senate: Bob Barker, \$10.00 per day.

Assistant Secretary: Henry Simon, \$5.00 per day.

Sergeant-at-Arms: A. W. Holt, \$7.50 per day.

Doorkeeper: Tom Garrard, \$5.00 per day.

Chaplain: W. H. Doss, \$5.00 per day.

Journal Clerk: Mrs. Mary Rugeley, \$7.50 per day.

Assistant Journal Clerk: Ray Lynch, \$5.00 per day.

Calendar Clerk: Mrs. Martha Turner, \$7.50 per day.

Assistant Calendar Clerk: Ross Alvis, \$5.00 per day.

Engrossing and Enrolling Clerk: Miss Essie McGinnis, \$7.50 per day.

Parliamentarian: Gibson Randle, \$5.00 per day.

Postmaster: Mrs. Lola Lawrence, \$5.00 per day.

Mailing Clerk: Mrs. Ann Polglass, \$5.00 per day.

Librarian: Miss Theodosia Bel, \$5.00 per day.

Warrant Clerk: Helen Avery, \$5.00 per day.

It is recommended that each Senator, Lieutenant Governor and the Secretary of the Senate, be permitted to name one secretary and such employee shall act as clerk of the committee of which the Senator naming such employee shall be the chairman thereof, such employee to receive \$5.00 per day.

It is further recommended that the chairman of the caucus appoint a committee of five who shall be authorized to select such other employees as in their judgment will be necessary.

It is further recommended that each Senator, the Lieutenant Governor and the Secretary of the Senate be permitted to name two employees of the Senate in addition to their private secretary; that the names of such employees be referred to a committee of five Senators, appointed by the chairman of the caucus, said committee to be authorized to select from said employees all employees in the engrossing and enrolling room and other departments of the Senate to assign said employment; said employees so named by the Senators, the Lieutenant Governor and the Secretary of the Senate to receive the sum of \$5.00 per day.

It is further recommended that the several appointments of employees heretofore made by the Lieutenant Governor and announced in the Senate and considered by the caucus are confirmed.

The salaries of the day and night elevator operators shall be \$4.00 per day each, and the salaries of the porters shall be \$2.50 per day each, except the head porter whose salary shall be \$4.00 per day and the porter carrying the mail shall receive \$3.50 per day, and the salaries of the pages shall be \$2.50 per day and the salaries of the messengers shall be \$3.00 per day.

The Lieutenant Governor is requested to recommend that the Southwestern Telephone Company employ Miss Mary Jacobs to attend the duties of telephone operator of

the Senate, and a night operator to be named by the committee of five Senators, out of the employees whose names are filed with said committee.

The Lieutenant Governor, Senators and the Secretary of the Senate are hereby fully authorized and empowered to use all Assistant Sergeant-at-Arms and all other necessary employees for any and all services needed in and about the Senate.

It is further recommended that no employee of the Senate shall during the time he or she is employed, furnish to any person, firm or corporation any information pertaining to the Senate and they shall not receive any compensation from any person, firm or corporation during their employment by the Senate and any employee found guilty of violating this provision shall be immediately discharged.

All employees, except those responsible directly to some Senator or committee, shall report for duty at eight o'clock a. m. and one o'clock p. m., reporting to the Sergeant-at-Arms of the Senate, and none of such employees shall be paid for days they are absent from the Senate.

It is further recommended that no person be employed by the Senate or under its direction, except private secretaries, who may be related within the second degree by affinity or within the third degree by consanguinity to any member of the Legislature or to any other person employed by or holding office under either the State of Texas, or the United States of America or political subdivision of this State, or by any public supported institution. (See Art. 432 Penal Code.)

It is further recommended that the Lieutenant Governor, each Senator and the Secretary of the Senate, be allowed the stationery and postage needed by them respectively, and expenses incurred in transmitting and receiving telephone and telegraph messages and express charges, such as may be actually necessary in the discharge of their official duties, said expenses to be paid out of the contingent fund.

It is further recommended that 2600 Journals be printed; that same be prorated among the Senators and Lieutenant Governor, except that 150 Journals shall be furnished the Members of the House.

It is further recommended that the Sergeant-at-Arms rent such typewriters as may be necessary for the use of the employees of the Senate, the contract to be approved by the committee of five.

It is further recommended that the Secretary of the Senate be paid for his services rendered in advance of and in preparation for the convening of this, the Second Called Session of the Forty-fourth Legislature; and that the Sergeant-at-Arms be allowed pay for each day of service from the date he ceased to draw compensation from his other employment; and extra employees and the porters who were selected to prepare the Senate Chamber in advance of the meeting, be allowed pay for their services, the per diem allowed each of the employees mentioned in this section be the same as herein fixed.

It is further recommended that the Senate request the State Comptroller of Public Accounts to issue general revenue warrants for the pay of the members and employees of the Senate upon presentation of the pay roll account signed by the presiding officer and the Secretary of the Senate.

The Chairman of the Caucus named the following members of the Senate as the committee of five, as hereinabove mentioned:

Redditt, Chairman; Pace, Vice-Chairman; Cotten, Regan, Small.

The committee of five hereinabove named shall have authority to employ P.B.X. operators at a per diem not to exceed \$5.00 per day.

It is further recommended that each Senator, the Lieutenant Governor and the Secretary of the Senate, be permitted to subscribe for three newspapers to be paid out of the contingent fund.

It is further recommended that the President of the Senate have exclusive appointment of a sufficient number of messengers, pages and porters as in his judgment may be necessary.

It is further recommended that the Chairman of the Finance Committee shall have authority to employ such additional employees of his own selection, to discharge the duties of the committee.

It is further recommended that the private rooms allotted to the Senators by the method as adopted

by the caucus be assigned to the Senators and their successors unless otherwise directed by the Senate.

It is further recommended that each Senator, as quickly as possible, file with the Secretary of the Senate the name of his private secretary selected; that he also file with the chairman of the committee of five Senators aforesaid the name of the employees selected, together with his or her post-office address and a suggestion as to the special qualification of said employee.

It is further recommended that the names, place or residence and compensation of all employees be printed in the Journal, together with the name of the Senator responsible for the employment of his employee.

Be it further resolved that no employee of the Senate except those whose official duties require them to work upon the floor of the Senate shall have access to the floor unless that employee shall have been requested by a Senator, the Lieutenant Governor, or the Secretary of the Senate, to come on the floor for some official duty—which when performed they will immediately leave the floor of the Senate. The Sergeant-at-Arms is specifically ordered to see that this provision is carried out.

HOLBROOK, Chairman.

Notification Committees.

The Chair appointed the following committee to notify the Governor that the Senate was organized and ready for business:

Senators Holbrook, Nelson and Davis.

The Chair appointed the following committee to notify the House that the Senate was organized and ready for business:

Senators Redditt, Burns and Martin.

Notification Committees Report.

The committee appointed to notify the House appeared at the bar of the Senate and Senator Redditt reported that the committee had performed its duty.

The committee to notify the Governor appeared at the bar of the Senate and Senator Holbrook reported that the committee had performed its duty.

Committee From the House.

The Chair recognized the doorkeeper, who introduced a committee from the House.

Mr. Walker informed the Senate that the House was organized and ready for business.

Officers Sworn In.

The officers and employees of the Senate were administered the oath of office.

Election of President Pro Tempore.

Senator Woodruff nominated for President Pro Tempore of the Senate, Senator W. R. Poage.

The nomination was seconded by Senators Oneal, Sanderford, Hornsby, Van Zandt, DeBerry, Beck, Cotten, Collie.

The Chair appointed Senators Regan, Cotten and Collie as tellers to count the votes.

The Secretary announced 27 votes cast for Senator Poage.

The Chair announced Senator Poage had been duly elected, and he appointed Senators Woodruff, Oneal and Hill to escort the President Pro Tem. elect to the platform where the President Pro Tempore Ad Interim, Jim Neal, administered the oath of office.

Senator Neal presented the newly elected President Pro Tem. and he addressed the Senate briefly.

Message From the Governor.

The Chair recognized the Doorkeeper, who introduced a messenger from the Governor with the following message:

Executive Office,

Austin, Texas, Oct. 16, 1935.

To the Members of the Forty-fourth Legislature (in Second Called Session):

The official proclamation calling you into extraordinary session for a second time sets out the following purposes:

1. To provide, under such limitations and restrictions and regulations as may be deemed by the Legislature expedient, for old age assistance and for the payment of same not to exceed \$15.00 per month each to actual bona fide citizens of Texas who are over the age of 65 years,

and in all things to carry out the will of the people as expressed by the adoption of House Joint Resolution No. 19, which provided for an amendment to Article 3 of the Constitution of Texas by adopting a new section to be known as Section 51-b.

2. To provide necessary revenue for such old age assistance.

I hereby submit the above subject matters for immediate attention.

The people overwhelmingly authorized you to establish an old age pension system. Under his oath to support the Constitution, it is the duty of every legislator to carry out the will of the people.

Old age pensions have to be financed by taxes.

I have repeatedly directed your attention to the staggering State deficit. With one or two small exceptions nothing whatever has been done towards balancing the budget. Even if a liquor regulation bill had been passed, the amount of revenues derived would scarcely have done more than wipe out this deficit over a period of years.

The State government cannot be carried on, certainly old age pensions cannot be financed, without additional taxes. Property taxes must not be increased. The budget, however, can be balanced, old age pensions can be financed, without great hurt to anyone if this Legislature will do its duty. The time has come when we must recognize that all interests in the State are going to have to contribute more to the far-reaching future functions of government ordered by the people.

In asking you to provide and finance old age pensions, I feel justified in requesting you not to send a bill to my desk without revenues. This would be unfair to the Executive Department; and if this government is to function satisfactorily, neither department must be unfair to the other. It would be unfair to the people if the Legislature should authorize old age pensions, yet fail to finance them—a type of politics justly and surely to be condemned at the polls.

It is only fair to remind you that I have at all times opposed a general sales tax. This opposition was carried forward into the Democratic platform because, in the words of the President, "it is a tax on poverty."

A general sales tax remains a "tax on poverty," irrespective of the purpose for which it is levied. I tell you in advance, therefore, that I will not approve any bill for a general sales tax on the necessities of life.

Members of the Forty-fourth Legislature, I cannot too earnestly emphasize the necessity for immediate, consistent, continued attention to this important problem. It is no criticism to say that the people of Texas are sorely disappointed at the outcome of the first called session. It is a simple fact.

Another barren session will be tragic. Let me show you only one feature of it:

After over two years, the Federal Government will shortly discontinue direct relief. The small balance of the twenty million dollar State bond issue on hand at the beginning of this administration is all but exhausted. Federal work relief plans, designed to take employables off relief rolls, are necessarily proceeding slowly.

I am advised by the Board of Control (the State Relief Agency) that the prospects are charged with tragic, dangerous possibilities when direct relief stops. In view of the people's failure to adopt the amendment authorizing the Legislature to submit emergency amendments at special sessions, it is doubtful whether, under the Constitution, the Legislature can take any steps to provide for relief of any kind regardless of the necessity.

The very least this Legislature can do, certainly the most patriotic opportunity, is to provide for an old age pension system without delay. This will take off relief rolls all people over 65 who are unable to help themselves.

I appeal to you to do your duty! The pension amendment was voted almost 60 days ago. It was submitted to the Legislature a month ago. We have, therefore, had opportunity to get all the facts available. The thing to do is to get down to work and stay at work! Committee hearings have already been held on most of the various tax measures. I agree, therefore, with the Chairman of the House Committee on Revenue and Taxation that there is no occasion for any long drawn out hearings on bills that have already had committee at-

tention. The sooner bills come to debate on the floor of each House, the more quickly can differences of opinion be ironed out.

I urge cooperative, considerate action; but we must get results! We can show results if we tend to business!

Respectfully submitted,

JAMES V. ALLRED,

Governor of Texas.

Bills and Resolutions.

Senate Bill No. 1.

By Senators Sanderford, Martin, Davis:

S. B. No. 1, A bill to be entitled "An Act creating a fund for old age assistance; creating a Division of Public Welfare as a part of the Board of Control; granting old age assistance to resident citizens of the State of Texas over the age of 65 years and prescribing the qualifications prerequisite to such assistance; prescribing the requirements of applications therefor; providing for a hearing upon such application, the approval thereof and the placing of the name of the applicant upon the old age assistance rolls; prescribing the time of payment of such assistance; how the amount thereof may be determined and the method in which the fund shall be allocated; providing for the administration of the fund to incompetent claimants; providing for the discontinuance of old age assistance where improperly granted; providing that such payments shall not be subject to debts, and making it an offense to obtain such assistance by false statements, etc., and prescribing penalty therefor; providing that said Act shall be a General Law; that the State shall financially participate in the plan and that the plan shall be administered by the Board of Control through the director of the Division of Public Welfare; providing that the director shall make reports to the Social Security Board of the United States, and providing that any sums of money collected as an estate tax shall be equally divided between the United States and the State of Texas; etc., and declaring an emergency."

Read and referred to the Committee on Finance.

Senate Bill No. 2.

Senator Burns sent up the following bill for Senator Shivers:

By Senator Shivers:

S. B. No. 2, A bill to be entitled "An Act creating a fund for old age assistance; creating a Division of Public Welfare as a part of the Board of Control; granting old age assistance to resident citizens of the State of Texas over the age of sixty-five years and prescribing the qualifications prerequisite to such assistance; prescribing the requirements of applications therefor; providing for a hearing upon such application, the approval thereof and the placing of the name of the applicant upon the old age assistance rolls; prescribing the time of payment of such assistance; how the amount thereof may be determined and the method in which the fund shall be allocated; providing for the administration of the fund to incompetent claimants; providing for the discontinuance of old age assistance where improperly granted; providing that such payments shall not be subject to debts, and making it an offense to obtain such assistance by false statements, etc., and prescribing penalty therefor; providing that said Act shall be a General Law; that the State shall financially participate in the plan and that the plan shall be administered by the Board of Control through the director of the Division of Public Welfare; providing that the director shall make reports to the Social Security Board of the United States, and providing that any sums of money collected as an estate tax shall be equally divided between the United States and the State of Texas; providing that the State of Texas accepts the provisions of the Social Securities Act; providing that Federal grants shall be in addition to the grants herein made; creating the Division of Public Welfare as a part of the Board of Control; providing for the appointment of a director, term of office, oath, bond qualifications, salary and compensation, and providing how a vacancy in office shall be filled; providing for the office of deputy director and other employees in the office of the director; prescribing the qualifications and compensation; providing for reports of

the director; granting the director the authority to prepare forms for the administration of this Act, and to promulgate rules and regulations; prescribing that each section of this Act and each subsection, sentence, clause and phrase is hereby declared to be independently operative, and declaring an emergency."

Read and referred to the Committee on Finance.

Senate Resolution No. 2.

Mr. President, I move that the Committee on Rules, heretofore appointed at the Regular Session of the Forty-fourth Legislature, be requested to report rules for consideration and adoption for this the Second Called Session of the Legislature.

COLLIE.

Read.

A second reading was called for. Pending.

Senate Bill No. 3.

By Senators Martin and Sanderford:

S. B. No. 3, A bill to be entitled "An Act providing for the security for the old aged of the State of Texas and creating a Board for the purpose of carrying out the provisions of this act and to that end provision is made for the control and management of the sale and disposition of intoxicating liquors in the State, and declaring an emergency."

Read and referred to the Committee on Finance.

Points of Order.

Senator Moore raised the point of order that S. B. No. 3 was out of order because it was a liquor monopoly bill and was in no way germane to the old age pension measure, which was the only subject coming within the Governor's call.

Senator Holbrook raised the point of order, that this bill is out of order as it violates that section of the Constitution which provides that all revenue raising measures must originate in the House.

The Chair sustained the points of order, stating that this is a jurisdictional matter and a point of order as to jurisdiction can be raised at any time and that unless the bill is one

which sets up a system of old age pensions or raises revenue for paying old age pensions, it cannot be considered by either House and that if it is simply a matter which provides revenue, it MUST originate in the House of Representatives.

Senator Stone asked unanimous consent for the Senator to yield for a motion to recess.

Objections were heard.

Senator Excused.

Senator Shivers was excused on account of important business on motion of Senator Burns.

Senate Resolution No. 2.

The question recurred on the pending resolution.

The Chair ruled that the Senate was operating under the rules of the First Called Session.

Point of Order.

Senator Rawlings raised the point of order that the Senate cannot adopt a blanket motion instructing a committee to adopt a set of rules.

The Chair, President Pro Tem. W. R. Poage, presiding, overruled the point of order.

Senator Collie moved to suspend the rule requiring resolutions to be referred to a committee.

The motion lost by viva voce vote.

S. R. No. 2 was referred to the Committee on Rules.

Recess.

Senator Redditt, at 12:15 o'clock p. m., moved that the Senate recess until 10:00 o'clock a. m. Thursday.

The motion prevailed by viva voce vote.

FIRST DAY—(Continued).

Senate Chamber,
Austin, Texas,
October 17, 1935.

The Senate met at 10:00 o'clock a. m., pursuant to recess, and was called to order by President Pro Tem. W. R. Poage.

Motion to Recess.

Senator Van Zandt at 10:10 o'clock a. m. moved that the Senate